

MEMORANDUM OF AGREEMENT

ENTERED INTO BY AND BETWEEN

UMNGENI MUNICIPALITY

Herein represented by **Mr M. HLOBA** in his duly authorised capacity as the **ACTING MUNICIPAL MANAGER** of the **uMngeni Municipality**

AND

LOVE HOWICK

Herein represented by **Mr M. HOGARTY**, in his capacity as **DIRECTOR** of the **LOVE HOWICK NPC**

AND

ESTABLISHMENT OF A COLLABORATIVE RELATIONSHIP IN THE AREA OF BEAUTIFICATION & ENVIRONMENTAL/WASTE MANAGEMENT PROJECTS IN UMNGENI MUNICIPALITY

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- 10/25

1. PREAMBLE

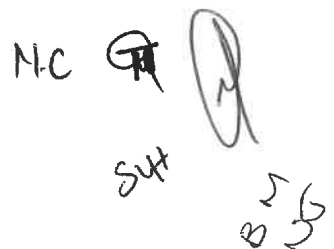


The purpose of this MOA is to define the basis for collaboration between the parties in areas of the beautification of areas in uMngeni Municipality

- 1.1. Whereas, Love Howick (NPC2018/242807/08) has been, for 5 years, implementing a number of programmes aimed at assisting the local community. One of these programs involves Environmental & Waste Management, namely Renoverge (A combined effort between businesses, government and the community aimed at cleaning up the verges of Howick and restoring beauty to our streets. This project provides a sustainable way to restore the beauty back to the CBD, entrances and exits, and main roads of the area, as well as introducing waste reduction systems through recycling, Bin It campaign, street art and various infrastructure upgrades.)
- 1.2. Whereas, another project that Love Howick is hoping to get started, called the City Parks Project. Designed to co-ordinate various partners to design & install various parks around the uMngeni area. These parks will be used to grow healthy ecosystems, safe recreational facilities, and stronger community networks and ultimately aid in economic growth in the area.
- 1.3. Whereas, upon a meeting with CoGTA, uMngeni Municipality and Love Howick, it was agreed that an MOU be established to formalise the intended partnership with the objective of establishing the proposed relationship to streamline and improve the delivery of the Renoverge and City Parks projects.
- 1.4. Whereas, both parties will provide shared resources, technical expertise and collaboration on the Renoverge and City Parks project
- 1.5. Whereas, the General Managers from Community Services and Economic Development and Planning and one Representative from Love Howick will provide oversight and coordination of the proposed relationship for a period of time.
- 1.6. Whereas, the ultimate aim of the relationship is to improve service delivery, establish a beneficial social compact and grow the local economy.
- 1.7. To support socio-economic development initiatives

THE PARTIES AGREE AS FOLLOWS:

2. INTERPRETATION AND DEFINITIONS

2.1. In this Agreement, unless the context indicates otherwise—

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2.1.1. An expression, which denotes any gender, includes the other gender, a natural person includes any juristic person and vice versa, and the singular includes the plural and vice versa.

2.1.2. Clause headings are for convenience only and will not be used in its interpretation, and the following expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings—

“**Agreement**” means this Collaborative Agreement and all the Annexures thereto;

“**COGTA**” means the KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs;

“**Love Howick**” means the Love Howick Non Profit Company aimed at community transformation, which operates as a registered NPC under the “Love Cities Network”

“**Love Cities Network**” is an association of projects that have agreed to the Love Howick scope of operations & formally sign on to be a partner organisation in their respective communities, agreeing to the terms of membership & code of conduct as stipulated by their agreement with the originator of this network, Love Howick NPC. This network is overseen by the Directors of Love Howick NPC;

“**uMngeni**” means uMngeni Municipality;

“**Parties**” means Love Howick and uMngeni Municipality.

“**Renoverge**” means the programme name under which all community beautification, waste management, environmental work & infrastructure upgrades operate. This includes but is not limited to brush cutting, street cleaning, waste removal, landscaping & garden projects, urban vegetable gardens, recycling, installing bins & concrete benches along key pedestrian routes, improving visual appeal of CBD & main routes using arts, architectural standards, signage etc.;

“**City Parks Project**” means the programme name under which all efforts to establish green spaces & places for recreation in designated public spaces as per planning department are initiated, developed and installed.;

“**PSC**” means the Project Steering Committee established in terms of Clause 5.

2.2. Whenever any number of days is prescribed, it excludes the first and includes the last day unless the last day falls on a Saturday, Sunday or South African public holiday in which event the last day will be the next succeeding business day;

2.3. Words and expressions defined in any sub-clause, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause; and

2.4. This Agreement is governed by and construed in accordance with the laws of the Republic of South Africa.

3. OBJECTIVES OF COLLABORATION

3.1. The main objective of this Agreement is to improve cooperation and strengthen the relationships on a range of issues related to the Renoverge and City Parks project. The intention is simply to 'make Love Cities Network areas beautiful again' attracting potential investors and much-needed boost to the local economy; while at the same time providing residents a community to be proud of. provided that—

3.1.1. The parties have agreed that the implementation of the above objectives must be in keeping with the parties' strategic objectives;

3.1.2. All collaborations generated by this Agreement must be geared towards realising the vision and objectives of the parties;

3.1.3. The parties agree to seek, reciprocity, mutual respect and equity in achieving the goals established by the Agreement;

3.1.4. The parties agree to promote the learning and use, or development of local skill, expertise and products in realizing the objectives of this Agreement;

3.1.5. The parties undertake to ensure that value is being added through their work in realising the objectives of this Agreement;

3.1.6. The parties undertake to promote methods of delivery that are ecologically viable, financially and economically sustainable; and

3.1.7. The parties agree to the implementation of this Agreement within their respective capacities through maximum utilisation of their existing resources.

4. SCOPE OF WORK

4.1. Love Howick Agrees to

4.1.1. Refurbish verges in uMngeni Municipality: (Team deployed fulltime to cut grass, weed embankments, clear gutters, refurbish manholes & restore paving in conjunction with uMngeni Municipality, landscape garden areas, help to implement effective signage & beautify our streets through various collaborative arts projects etc).

4.1.2. Love Howick litter bins: Co-ordinate the sponsoring of bins by business along pedestrian routes within the Howick CBD and Main Road areas to reduce litter and enhance environment

4.1.3. Embark on beautification projects (Refurbishment of verges, landscaping, clearing etc) in the following areas:

1	Howick CBD	<ul style="list-style-type: none"> - Howick Bridge, along Main Street towards Greendale Spar - Central Block (Bell/Harvard/Morling/Somme Streets) - Karkloof Intersection, through to Ambervalley Entrance - Central Park / Morling Street / Taxi Rank
2	Entry / Exits	<ul style="list-style-type: none"> - Tweedie Off Ramp, through to Greendale Spar - Midmar Off Ramp, through to Fairways Intersection - Merrivale Off Ramp, through to Mpophomeni Bridge
3	Linking Roads	<ul style="list-style-type: none"> - Howick Bridge, through to Merrivale Bridge - Howick Falls Drive
4	Nottingham Road	<ul style="list-style-type: none"> - CBD/ Entry Points
5	Mpophomeni Entrance	<ul style="list-style-type: none"> - Sasol Garage/Tourism Centre - Road to Taxi Rank

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- 4.1.4. To present the City Parks plans to uMngeni for approval and ratification.
- 4.1.5. To ensure, if the City Parks plans are approved, the implementation of the City Parks project (Subject to agreed terms and conditions outlined by both parties in the presented plans)
- 4.1.6. To support socio-economic development within the Umngeni Municipality, including but not limited to Entrepreneurship & SMME Development, Agriculture & Tourism training & development initiatives, Informal traders development, Work Readiness & Skills Development, Sports & Recreation Initiatives

4.2. uMngeni Municipality agrees to—

- 4.2.1. Share resources in an effort to support Love Howick in their planned activities regarding the Renoverge project
- 4.2.2. Support Love Howick in different activities related to the Renoverge project
- 4.2.3. To work with Love Howick regarding the development and implementation of the City Parks project
- 4.2.4. Develop and facilitate discussions with Love Howick on continued elements of improvement to ensure that the Renoverge project is a success.
- 4.2.5. Assist with providing resources & share assets where possible to ensure that the various Renoverge projects are implemented for the mutual benefit of both parties & in the best interest of the uMngeni Municipality citizens.

4.3. The parties, agree to—

- 4.3.1. Develop a three-month action plan outlining the planned activities of both parties and how they will be supporting each other in the execution of the Renoverge project – This action plan will be reviewed every three months and a new one developed.
- 4.3.2. Form a Project Steering Committee which will be co-chaired by General Managers (Community Services and Economic Development and Planning). The steering committee will drive the partnership and ensure that the action plans are implemented. Once the 6-month period is over, the PSC will appoint co-chairs (one from Love Howick and one from uMngeni Municipality).

5. ESTABLISHMENT OF A PROJECT STEERING COMMITTEE TEAM

- 5.1. The parties agree to set up a PSC team with duly appointed authorized representatives, whose functions and duties include, but are not limited to—

- 5.1.1.Overseeing the implementation of this Agreement by, among other things, coordinating, directing, and ensuring implementation of this collaborative Agreement; and
- 5.1.2.Discussing feedback on challenges encountered in implementing this Agreement and suggesting how such challenges may be alleviated.
- 5.1.3.Collaborating with other stakeholders to implement various programmes and projects relating to the Renoverge project
- 5.1.4.Develop, implement and monitor the three-month action plans agreed upon in the PSC meetings.

6. MEETINGS AND COMPOSITION OF THE PSC

6.1.The parties agree that—

- 6.1.1.The PSC will meet a minimum of once a month, or as and when a meeting may be necessary;
- 6.1.2.The PSC will comprise of a minimum of nine members, as well as designated alternatives, appointed by each of the parties.
- 6.1.3.The PSC will be co-chaired by General Managers (Community Service and Planning and Economic Development).
- 6.1.4.Individual, separate contracts and/ or service level agreements containing terms and conditions (if any) applicable to the parties and relevant third parties may be concluded in terms of projects contemplated in this Agreement; and
- 6.1.5.A Project Steering Committee, comprising of not more than three representatives from each of the parties (Love Howick, uMngeni Municipality), will be established.

7. THE CONTRIBUTION

7.1 Subject to the terms and conditions of this agreement, the uMngeni Municipality agrees to provide Love Howick with the amount of R30 000 per month for the implementation of beautification projects in uMngeni Municipality.

7.2 the parties agree that uMngeni Municipality will make payment within the first 7 days of the month in respect of the allocation to Love Howick NPC.

7.3. Payment will be made in favour of Love Howick NPC at the following details

Bank :First National Bank Howick
A/C Number :62774727039
Branch Code :220 725

7.4 Any changes in respect of the above details shall be made available in writing to the Chief Finance Officer with immediate effect.

7.5 The Municipality agrees to the above-mentioned monthly contribution, subject to the state of Municipal finances & affordability.

8. GOOD FAITH

The parties agree to observe the utmost good faith in the implementation of this Agreement, and hereby affirm that in their dealings with each other, neither party may do anything, or refrain from doing anything, which may prejudice or detract from the rights or interests of the other party.

9. WARRANTIES

9.1. Each party here by warrants that it is entitled and authorized to enter into this Agreement;

9.1.1. It is free and able to grant the rights and perform the obligations imposed on it in terms of this Agreement;

9.1.2. It has not entered into any Agreement with any third party that conflicts with this Agreement; and

9.1.3. It will not disclose any information relating to the business or affairs of the other party, or relating to the content of this Agreement, to any third party, other than its professional advisers, as may be required by law or as agreed to between the parties in writing.



10. INDEMNITY

Notwithstanding anything to the contrary contained in this Agreement, neither party will be liable for any indirect, special, consequential or incidental loss or damage arising under or in connection with this Collaborative Agreement, or arising from any act or omission or statement by the other party or its officials, except to the extent to which such claims, losses, damages and costs arise out of unlawful, wilful, or negligent acts or omissions of any of either of the parties to this Agreement.

11. DURATION OF AGREEMENT

11.1. This Agreement commences on the 1 July 2022 as per Council Resolution

11.2. The parties undertake to review the agreement annually, a year after the last signature date.

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12. TERMINATION OF AGREEMENT

Either party may terminate this Collaborative Agreement on written notice to the other party, of not less than 60 calendar days, provided that in the event that the Agreement is terminated, the parties agree that—

12.1. The future rights and obligations of the parties under this Collaborative Agreement will similarly terminate upon the date of termination of the Agreement; and

12.2. Any rights or obligations to which any of the parties to this Collaborative Agreement may have been be entitled, or subjected, to before the date of termination will remain in full force and effect.

13. DISPUTE RESOLUTION

13.1. A dispute shall be deemed to have arisen when either Party notifies the other Party in writing to that effect.

13.2. The Parties shall use all reasonable efforts to resolve any dispute that may arise under this Agreement through good faith negotiations. Each Party shall nominate a senior representative of its management to meet at any mutually agreed location to resolve the dispute. In the event that negotiations do not result in a mutually acceptable resolution, the dispute shall be handled in accordance with clause 12.3.

13.3. Any dispute or difference arising out of or relating to this Agreement shall be referred to arbitration and settled by arbitration according to the rules then in effect of the Arbitration Foundation of Southern Africa. Such arbitration shall be held in Pietermaritzburg, and conducted in the English language before one arbitrator appointed in accordance with the said rules. These provisions shall not prevent either Party to approach any court or other judicial forum having appropriate jurisdiction to obtain timely injunctive or other relief in cases of urgency.

14. BREACH OF AGREEMENT

If either party fails to meet its obligations in terms of this Collaborative Agreement, the innocent party, at its choice, without prejudice to any other rights and remedies the party may have, after compliance with clause 15, and after giving seven days written notice to the defaulting party at its *domicilium*, calling on the latter to remedy the breach, may—

- 14.1. Cancel the Collaborative Agreement; or
- 14.2. Enforce the terms of the Collaborative Agreement; and
- 14.3. claim any damages it may have suffered as a result of the breach.

15. DOMICILIUM

The parties choose their *domicilium citandi et executandi* for all purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this Agreement, as follows:

Love Howick : 72 Main Street Howick 3290

uMngeni Municipality: Corner Dicks & Somme Street Howick 3290

16. VARIATION TO DOMICILIUM

Either party, upon written notice to the other party, may vary its physical address or email address and to any other physical address or email address within the Republic of South Africa.

17. NOTICES

Any notice given by either party to the other party, which—

- 17.1. is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* will be deemed to have been received by the addressee at the time of delivery;
- 17.2. is sent by email to the addressee's *domicilium* will be deemed to have been received on the date and time of successful transmission thereof.

18. SOLE RECORD

This Agreement, together with its appendices, constitutes the sole record of the Agreement between the parties in regard to its subject matter, and neither party will be bound by any

representation, express or implied term, warranty, promise or the like not recorded herein, or reduced to writing and signed by all parties.

19. VARIATION

No variation, modification, addition, alteration, erasure or abandonment of any clause of this Agreement or consent to deviation from the Agreement will be valid unless it is recorded in writing and signed by all parties.

20. GRACE

No grace, delay, relaxation, leniency or indulgence granted by the either party to the other will be deemed to be an abandonment of any right by the innocent party, and will not prevent the innocent party from insisting on strict future compliance by the defaulting party with all the terms and conditions of this Agreement.

21. SEVERABILITY

Each clause of this Agreement is severable from each of the other clauses and if any clause in this Agreement is found to be void, invalid or unenforceable for any reason, the remaining clauses will remain in full force and effect.

22. SUCCESSORS-IN-TITLE

The provisions of this Agreement will be binding upon the successors-in-title of the parties, and the rights and obligations of each party arising out of or pursuant to this Agreement will devolve upon and bind its successors-in-title.

23. CESSION

Neither party may cede, assign, transfer or otherwise make over any of its rights or obligations contemplated in this Agreement.

UMNGENI MUNICIPALITY AND LOVE HOWICK – MEMORANDUM OF AGREEMENT - ESTABLISHMENT OF A COLLABORATIVE RELATIONSHIP IN THE AREA OF BEAUTIFICATION PROJECTS IN UMNGENI MUNICIPALITY

SIGNED AT Howick ON THIS 1 DAY OF July 2022

AS WITNESSES:

1. 

NAME: Nomonde Mdepha



NAME: MA HOGARTY

LOVE HOWICK


2. 

NAME: Sarah van Heerden.

SIGNED AT Howick ON THIS 1st DAY OF July 2022

AS WITNESSES:

1. B. Mpanza

NAME: 



NAME: M. Hooba

UMNGENI MUNICIPALITY

2. N. MAHLABA

NAME: 